

## CHAPTER 4-3

### ROBBERY

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The instructions in this chapter cover the offenses defined in §§ 18-4-301 through -303, C.R.S.

#### 4-3:01 ROBBERY

The elements of the crime of robbery are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. took anything of value,
5. from the person or presence of another,
6. by the use of force, threats, or intimidation.

7. [without the affirmative defense in instruction number \_\_\_\_\_.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of robbery.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of robbery.

#### NOTES ON USE

Delete inapplicable bracketed material. The definition of "knowingly" must be given with this instruction.

#### SOURCE & AUTHORITY

§18-4-301(1), C.R.S.

COLJI-Crim. No. 15:01 (1983).

*People v. Borghesi*, 66 P.3d 93 (Colo. 2003)(robbery is a crime against persons not property)

*People v. Scarce*, 97 P.3d 228 (Colo. App. 2003)(on general intent requirements)

#### CLASSIFICATION OF OFFENSE

F4

#### **4-3:02 AGGRAVATED ROBBERY (KILL, MAIM, OR WOUND)**

The elements of the crime of aggravated robbery are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,

4. took anything of value,
5. from the person or presence of another,
6. by the use of force, threats, or intimidation, and
7. during the act of robbery or the immediate flight therefrom,
8. was armed with a deadly weapon,
9. with intent, if resisted, to kill, maim, or wound any person,
10. [without the affirmative defense in instruction number \_\_\_\_\_].

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of aggravated robbery.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of aggravated robbery.

#### **NOTES ON USE**

Delete inapplicable bracketed material.

When this instruction is used, the applicable definition of "deadly weapon", "knowingly" and "with intent" must be given.

#### **SOURCE & AUTHORITY**

§18-4-302(1)(a), C.R.S.

COLJI-Crim. No. 15:02 (1983).

#### **CLASSIFICATION OF OFFENSE**

F3

**4-3:03 AGGRAVATED ROBBERY (WOUND, STRIKE, OR PUT IN FEAR)**

The elements of the crime of aggravated robbery are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. took anything of value,
5. from the person or presence of another,
6. by the use of force, threats, or intimidation, and
7. during the act of robbery or the immediate flight therefrom,
8. knowingly,
9. [wounded or struck any person
10. with a deadly weapon,]

- or -

9. [put any person in reasonable fear of death or bodily injury,
10. by the use of force, threats, or intimidation,
11. with a deadly weapon,]

[11. or 12. without the affirmative defense in instruction number \_\_\_\_\_].

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of aggravated robbery.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements

beyond a reasonable doubt, you should find the defendant not guilty of aggravated robbery.

#### **NOTES ON USE**

Delete inapplicable bracketed material.

When this instruction is used, the applicable definition of "deadly weapon" and "knowingly" must be given.

#### **SOURCE & AUTHORITY**

§18-4-302(1)(b), C.R.S.

COLJI-Crim. No. 15:02 (1993).

#### **CLASSIFICATION OF OFFENSE**

F3

#### **4-3:04 AGGRAVATED ROBBERY (CONFEDERATE)**

The elements of the crime of aggravated robbery are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. took anything of value,
5. from the person or presence of another,
6. by the use of force, threats, or intimidation, and
7. during the act of robbery or the immediate flight therefrom,
8. had present a confederate who was aiding or abetting the perpetration of the robbery, and who was armed with a deadly weapon, and

9. [the defendant or the confederate had the intent to kill, maim, or wound any person if resistance was offered,]

- or -

[the confederate put any person in reasonable fear of death or bodily injury by the use of force, threats, or intimidation]

10.[without the affirmative defense in instruction number \_\_\_\_\_].

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of aggravated robbery.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of aggravated robbery.

#### **NOTES ON USE**

Delete inapplicable bracketed material.

When this instruction is used, the applicable definition of "deadly weapon", "intent" and "knowingly" must be given.

#### **SOURCE & AUTHORITY**

§18-4-302(1)(c), C.R.S.

COLJI-Crim. No. 15:04 and 15:08 (1983).

*People v. Wilford*, 111 P.3d 512 (Colo. App. 2005)(discussion re: instructions on confederate and use of weapon)

#### **CLASSIFICATION OF OFFENSE**

F3

**4-3:05 AGGRAVATED ROBBERY (REPRESENTATION OF DEADLY WEAPON)**

The elements of the crime of aggravated robbery are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. took anything of value,
5. from the person or presence of another,
6. by the use of force, threats, or intimidation, and
7. during the act of robbery or the immediate flight there from, [possessed any article used or fashioned in a manner to lead any person who was present reasonably to believe it to be a deadly weapon] [represented, verbally or otherwise, that he was then and there armed with a deadly weapon].
8. [without the affirmative defense in instruction number \_\_\_\_\_].

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of aggravated robbery.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of aggravated robbery.

**NOTES ON USE**

Delete inapplicable bracketed material.

When this instruction is used, the applicable definition of "deadly weapon" and "knowingly" must be given.

**SOURCE & AUTHORITY**

§18-4-302(1)(d), C.R.S.

**CLASSIFICATION OF OFFENSE**

F3

**4-3:06 AGGRAVATED ROBBERY OF CONTROLLED SUBSTANCES  
(KILL, MAIM, OR WOUND)**

The elements of the crime of aggravated robbery of a controlled substance are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. took any controlled substance,
5. from any pharmacy or other place having lawful possession thereof or from any pharmacist or other person having lawful possession thereof,
6. by the use of force, threats, or intimidation, and
7. during the act of robbery or the immediate flight therefrom,
8. was armed with a deadly weapon,
9. with intent, if resisted, to kill, maim, or wound any person,
10. [without the affirmative defense in instruction number \_\_\_\_\_].

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a

reasonable doubt, you should find the defendant guilty of aggravated robbery of controlled substances.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of aggravated robbery of controlled substances.

#### **NOTES ON USE**

Delete inapplicable bracketed material.

When this instruction is used, the applicable definitions of "knowingly", "with intent", "deadly weapon" and "controlled" substance must be given.

#### **SOURCE & AUTHORITY**

§§18-4-303, -302(1)(a) C.R.S.

COLJI-Crim. No. 15:05 (1983).

#### **CLASSIFICATION OF OFFENSE**

F2

#### **4-3:07 AGGRAVATED ROBBERY OF CONTROLLED SUBSTANCES (WOUND, STRIKE, OR PUT IN FEAR)**

The elements of the crime of aggravated robbery of a controlled substance are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. took any controlled substance,

5. from the person or presence of another

6. in any pharmacy or other place having lawful possession thereof or from any pharmacist or other person having lawful possession thereof,

7. by the use of force, threats, or intimidation, and

8. during the act of robbery or the immediate flight therefrom,

9. knowingly,

10. [wounded or struck any person

11. with a deadly weapon,]

- or -

10. [put any person in reasonable fear of death or bodily injury,

11. by the use of force, threats, or intimidation,

12. with a deadly weapon,]

[12. or 13. without the affirmative defense in instruction number \_\_\_\_\_].

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of aggravated robbery of controlled substances.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of aggravated robbery of controlled substances.

#### **NOTES ON USE**

Delete inapplicable bracketed material.

When this instruction is used, the applicable definitions of "knowingly", "deadly weapon" and "controlled substance" must be given.

**SOURCE & AUTHORITY**

§§18-4-303, 302(1)(b), C.R.S.

COLJI-Crim. No. 15:06 (1983).

**CLASSIFICATION OF OFFENSE**

F2

**4-3:08 AGGRAVATED ROBBERY OF CONTROLLED SUBSTANCES  
(CONFEDERATE)**

The elements of the crime of aggravated robbery of a controlled substance are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. took any controlled substance,
5. from any pharmacy or other place having lawful possession thereof or from any pharmacist or other person having lawful possession thereof,
6. by the use of force, threats, or intimidation, and
7. during the act of robbery or the immediate flight therefrom,
8. had present a confederate who was aiding or abetting the perpetration of the robbery and who was armed with a deadly weapon, and

9. [either the defendant or the confederate had the intent to kill, maim, or wound any person if resistance was offered,]

- or -

[the confederate put any person in reasonable fear of death or bodily injury by the use of force, threats, or intimidation]

10. [without the affirmative defense in instruction number \_\_\_\_\_].

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of aggravated robbery of controlled substances.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of aggravated robbery of controlled substances.

#### **NOTES ON USE**

Delete inapplicable bracketed material.

When this instruction is used, the applicable definitions of "knowingly", "with intent", "deadly weapon" and "controlled substance" must be given.

#### **SOURCE & AUTHORITY**

§§18-4-302(1)(c), -303, C.R.S.

COLJI-Crim. No. 15:08 and 15:09 (1983).

*People v. Wilford*, 111 P.3d 512 (Colo. App. 2005)(discussion re: instructions on confederate and use of weapon).

#### **CLASSIFICATION OF OFFENSE**

**4-3:09 AGGRAVATED ROBBERY OF CONTROLLED SUBSTANCES  
(REPRESENTATION OF DEADLY WEAPON)**

The elements of the crime of aggravated robbery of a controlled substance are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. took any controlled substance,
5. from any pharmacy or other place having lawful possession thereof or from any pharmacist or other person having lawful possession thereof,
6. by the use of force, threats, or intimidation, and
7. during the act of robbery or the immediate flight therefrom,
8. knowingly,
9. [possessed any article used or fashioned in a manner to lead any person who was present reasonably to believe it to be a deadly weapon] [represented, verbally or otherwise, that he was then and there armed with a deadly weapon].
10. [without the affirmative defense in instruction number \_\_\_\_\_].

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of aggravated robbery of controlled substances.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of aggravated robbery of controlled substances.

#### **NOTES ON USE**

Delete inapplicable bracketed material.

When this instruction is used, the applicable definitions of "knowingly", "deadly weapon" and "controlled substance" must be given.

#### **SOURCE & AUTHORITY**

§§18-4-303, 302(1)(d), C.R.S.

#### **CLASSIFICATION OF OFFENSE**

F2